

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VIRTAMOVE, CORP.,	§	Case No. 2:24-cv-00093-JRG
	§	(Lead Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
HEWLETT PACKARD ENTERPRISE	§	
COMPANY,	§	
	§	
Defendant.	§	

VIRTAMOVE, CORP.,	§	Case No. 2:24-cv-00064-JRG
	§	(Member Case)
Plaintiff,	§	
	§	
v.	§	JURY TRIAL DEMANDED
	§	
INTERNATIONAL BUSINESS MACHINES	§	
CORP.,	§	
	§	
Defendant.	§	

**DECLARATION OF ANDREW MORRILL IN SUPPORT OF INTERNATIONAL
BUSINESS MACHINES CORP.'S OPPOSITION TO VIRTAMOVE'S MOTION TO
STRIKE OPINIONS OF JAMES E. MALACKOWSKI**

I, Andrew Morrill, hereby declare:

1. I am a partner at the law firm of Kirkland & Ellis LLP, counsel for Defendant and Counter-Plaintiff International Business Machines Corp. (“IBM”) in the above-styled matter. I am a member of the Bar of the State of California, and am admitted to practice pro hac vice before this Court. I provide this declaration in support of IBM’s Opposition to VirtaMove’s Motion to Strike Opinions of James E. Malackowski. I have personal knowledge of the information set forth herein, and I could and would competently testify thereto if called as a witness.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from James Malackowski’s July 14, 2025 Rebuttal Expert Report on Damages.

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from James Malackowski’s June 23, 2025 Opening Expert Report on Damages.

4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts from IBM’s Second Set of Interrogatories (Nos. 26-39).

5. Attached hereto as **Exhibit 4** is a true and correct copy of excerpts from Dr. Stephen Wicker’s July 18, 2025 Deposition Transcript.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from Dr. Wicker’s June 23, 2025 Counterclaim Opening Expert Report Regarding U.S. Patent Nos. 8,943,500, 9,697,038, 9,722,858, and 10,606,634.

7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from James Malackowski’s July 16, 2025 Deposition Transcript.

8. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts from IBM’s June 4, 2025 Corrected Supplemental Objections and Responses to VirtaMove’s Interrogatories

(Nos. 1, 2, 5, 6, 8, 9, 10, 11, 12, 13, 19, and 21) and Objections and Responses to Plaintiff's Sixth Set of Interrogatories (No. 22).

9. Attached hereto as **Exhibit 8** is a true and correct copy of excerpts from Michael Brown's May 22, 2025 Deposition Transcript.

10. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts from Amit Paradkar's May 27, 2025 Deposition Transcript.

11. My firm has applied highlighting to **Exhibits 1-2, 4, and 6** consistent with the guidance in Local Rule CV-7(b).

I declare under penalty of perjury that the foregoing is true and correct. Executed this 11th day of August, 2025 in Costa Mesa, California.

/s/ Andrew Morrill
Andrew Morrill

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system pursuant to Local Rule CV-5(a)(3) on August 11, 2025.

/s/ Todd M. Friedman

Todd M. Friedman